

ENTERED

November 10, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EDDIE TAMEZ,

Plaintiff,

VS.

STEPHEN TOROK,

Defendant.

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CIVIL ACTION NO. 2:21-CV-00220

ORDER ADOPTING MEMORANDUM & RECOMMENDATION

Before the Court is Magistrate Judge Julie Hampton's Memorandum and Recommendation (M&R). (D.E. 11). The M&R recommends that (1) the Court retain Plaintiff Tamez's Eighth Amendment deliberate indifference claim against Defendant Torok in his individual capacity and (2) dismiss with prejudice Plaintiff Tamez's claim against Defendant Torok in his official capacity. (D.E. 1).

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A. H-14-2700, 2015 WL 3823141, at *1 (S.D. Tex. June 18, 2015).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the

M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 11). Accordingly:

- (1) The Court **RETAINS** Plaintiff's Eighth Amendment claim of deliberate indifference against Defendant Torok in his individual capacity. (D.E. 1).
- (2) The Court **DISMISSES with prejudice** Plaintiff's claim against Defendant Torok in his official capacity.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
November 10th, 2021